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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,478	03/01/2004	Jean-Pierre Julien	1770-300"US"-1 VC/dm	7549
20988	7590	04/25/2006	EXAMINER	
OGILVY RENAULT LLP 1981 MCGILL COLLEGE AVENUE SUITE 1600 MONTREAL, QC H3A2Y3 CANADA			SPIVACK, PHYLLIS G	
			ART UNIT	PAPER NUMBER
			1614	

DATE MAILED: 04/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/788,478

Applicant(s)

JULIEN ET AL.

Examiner

Phyllis G. Spivack

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Applicants' Response filed December 21, 2005 to the Office Action mailed July 29, 2005 is acknowledged. An additional filing on December 22, 2005 is noted. Claims 1-10 remain under consideration.

The objection to the disclosure set forth in the last Office Action is withdrawn following spelling corrections.

The abstract of the disclosure is objected to because the specification is entirely drawn to subject matter wherein three compounds, not two, are administered. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to for the following informalities: The specification is entirely drawn to subject matter wherein three compounds, not two, are administered. Further, there is no disclosure directed to symptoms related to stroke. It is suggested the recitation -- treatment of stroke -- is alternatively considered.

The term "channel" is spelled incorrectly in claim one.

Appropriate correction is required.

In the last Office Action claims 1-10 were rejected under 35 U.S.C. 103 as being unpatentable over Yrjanheikki et al., Proc. National Academy of Sciences, and Lai et al., U.S. Patent 6,710,086. It was asserted Yrjanheikki teaches the administration of tetracyclines, such as doxycycline and minocycline, that inhibit microglial activation through anti-inflammatory and neuroprotective effects, for use in the treatment of stroke. Lai teaches the administration of doxycycline hyclate or minocycline hydrochloride for use in the treatment of stroke. Both nimodipine and riluzole are characterized as agents for use in the treatment of stroke.

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Applicants argue there is no published evidence of successful three-drug therapy, i.e., an inhibitor of microglial activation, an antiglutaminergic agent and a voltage-gated calcium channel blocker, in experimental stroke to date. Applicants argue their presentation of a three-drug strategy provides significantly better neuroprotection than any of the cocktail components tested alone and refer to figures in the specification. Further, Applicants refer to an "enclosed manuscript by Weng and Kriz".

Applicants' arguments have been given careful consideration but are not found persuasive. The rejection of record under 35 U.S.C. 103 as being unpatentable over Yrjanheikki et al., Proc. National Academy of Sciences, and Lai et al., U.S. Patent 6,710,086, is maintained. It is unclear whether or not the "enclosed manuscript by Weng and Kriz" is a published document or intended to be presented as a declaration. It is noted the term "synergy" – although argued – is not recited in the present claims. The combined teachings of Yrjanheikki and Lai render obvious a combination therapy to treat stroke.

No claim is allowed.

THIS ACTION IS MADE FINAL. Applicants are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this Final Action is set to expire THREE MONTHS from the mailing date of this Action. In the event a first reply is filed within TWO MONTHS of the mailing date of this Final Action and the Advisory Action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the Advisory Action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the Advisory Action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this Final Action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Phyllis G. Spivack whose telephone number is 571-272-0585. The Examiner can normally be reached from 10:30 to 7 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Christopher Low, can be reached 571-272-951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 23, 2006


Phyllis Spivack **PHYLLIS SPIVACK**
PRIMARY EXAMINER